

Message Text

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FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC 4403

UNCLAS SECTION 1 OF 2 TAIPEI 4518

E.O. 11652: N/A

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SUBJECT: EIGHTH REVISION OF STATUTE FOR ENCOURAGEMENT OF INVESTMENT

1. SUBJECT REVISION HAS RECENTLY BEEN PASSED BY ROC LEGISLATIVE YUAN (ON JULY 13, 1977) AND IS NOW WAITING FOR PRESIDENT YEN'S PROMULGATION, EXPECTED IN A FEW DAYS. THIS REVISION INVOLVES 29 ARTICLES OF THE STATUTE FOR ENCOURAGEMENT OF INVESTMENT OF WHICH TWO ARE CANCELLED AND 27 ARE SIGNIFICANTLY REVISED. MAIN PURPOSES OF THIS REVISION ARE TO STIMULATE INVESTMENT, AND TO IMPROVE THE INDUSTRIAL STRUCTURE. MAJOR CHANGES ARE AS FOLLOWS:

2. FOUR-YEAR BUFFER PERIOD FOR BEGINNING DATE OF TAX HOLIDAY (ARTICLES 6 & 7). PRIOR LAW PROVIDED FOR A 5-YEAR EXEMPTION FROM INCOME TAX FOR ELIGIBLE NEW ENTERPRISES, AND FOR A 4-YEAR EXEMPTION FOR ELIGIBLE ESTABLISHED ENTERPRISES, WITH RESPECT TO INCOME PRODUCED BY NEW EQUIPMENT FINANCED BY NEW INVESTMENT. THE EXEMPTIONS TOOK EFFECT ON THE DATE THE NEW ENTERPRISE COMMENCED OPERATIONS, OR ON THE DATE THE ESTABLISHED ENTERPRISE BEGAN TO UTILIZE ITS NEW EQUIPMENT. THE NEW LAW ALLOWS "IMPORTANT" ELIGIBLE ENTERPRISES TO DEFER THE BEGINNING OF THE TAX-FREE PERIOD FOR UP TO FOUR YEARS AFTER THE COMMENCEMENT OF THE UTILIZATION OF NEW EQUIPMENT. UNDER PRIOR LAW, THE FOUR OR FIVE YEAR TAX HOLIDAY

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WAS OF LITTLE BENEFIT TO THOSE ENTERPRISES & INVESTMENTS WHOSE INITIAL PROFITS WERE LOW OR NON-EXISTENT. SOME INVESTORS NOW HAVE A CHANCE TO ENJOY A TAX HOLIDAY WHEN THEY CAN BENEFIT MOST FROM IT, THAT IS, AFTER PROFITS HAVE BEGUN TO TURN UP. "ELIGIBLE INDUSTRIES" ARE, IN GENERAL, CAPITAL-INTENSIVE OR HIGH-TECHNOLOGY INDUSTRIES, AS DEFINED IN THE "CATEGORIES AND CRITERIA OF THE PRODUCTIVE ENTERPRISES

ELIGIBLE FOR ENCOURAGEMENT". THE "IMPORTANT" ELIGIBLE INDUSTRIES ENTITLED TO THE BENEFITS OF THE NEW LAW WILL BE DEFINED IN A REVISION OF THE "CATEGORIES AND CRITERIA OF THE PRODUCTIVE ENTERPRISES ELIGIBLE FOR ENCOURAGEMENT", TO BE PUBLISHED SOON.

3. CEILING OF PAYABLE INCOME TAX (ARTICLE 10) LOWERED.

THE NEW LAW SETS A MAXIMUM INCOME TAX RATE OF 25 PERCENT FOR PRODUCTIVE

ENTERPRISES WHICH STARTED OPERATION AFTER DEC. 31, 1973. THE MAXI-

MUM RATE IN THE PRIOR LAW WAS 30 PERCENT. THE MAXIMUM RATE FOR SPE-

CIALY ENCOURAGED INDUSTRIES, SUCH AS BASIC METAL MANUFACTURING, HEAVY

MACHINERY, PETROCHEMICALS AND OTHER TECHNOLOGY-INTENSIVE AND CAPITAL-INTENSIVE INDUSTRIES, REMAINS 22 PERCENT.

4. MAXIMUM RETAINED EARNINGS FOR DIVIDEND TAX PURPOSE (ARTICLE 12-1)

UNDER THE PRIOR LAW, THE MAXIMUM RETAINED EARNINGS PERMISSIBLE WITHOUT INCOME OR DIVIDEND TAX WAS ONE-HALF OF THE PAID-IN CAPITAL. THIS AMENDMENT RAISES THIS CEILING TO 100 PERCENT OF PAID-IN CAPITAL FOR THE SPECIALLY ENCOURAGED INDUSTRIES REFERRED TO BY ARTICLE 10.

5. EXPORT LOSS RESERVE (ARTICLE 18-1).

IN ORDER TO ENCOURAGE EXPORTS, THIS AMENDMENT ALLOW 1 PERCENT OF EXPORT

REVENUE IN ONE YEAR TO BE SET ASIDE AS AN EXPORT LOSS RESERVE EX-UNCLASSIFIED

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CLUSIVELY FOR PURPOSE OF MAKING GOOD EXPORT LOSS ACTUALLY INCURRED IN THE NEXT YEAR. THIS RATIO SHALL BE MAINTAINED WITH 1 PERCENT OF EXPORT REVENUE IN ENSUING YEAR.

6. RESEARCH AND DEVELOPMENT EXPENDITURE ALLOWED TO BE LISTED AS LEGITIMATE BUSINESS EXPENSE (ARTICLE 23-1).

THIS AMENDED ARTICLE CONFIRMS AND REPEATS AMENDED INCOME TAX LAW EFFECTIVE ON FEB. 1, 1977 WHICH PROVIDED THAT EXPENDITURES IN RESEARCH

AND EXPERIMENTS FOR IMPROVEMENT OF PRODUCTION TECHNOLOGY OR FOR DEVELOPMENT OF NEW PRODUCTS MAY BE DEDUCTED AS BUSINESS EXPENSES.

THIS AMENDMENT FURTHER PROVIDES THAT RESEARCH AND EXPERIMENTAL EQUIPMENT AND FACILITIES, WITH SERVICE LIFE EXCEEDING TWO YEARS, SHALL BE ELIGIBLE FOR ACCELERATED DEPRECIATION IN ACCORDANCE WITH THE STANDARDS SET FORTH IN ARTICLE 6 OF THE PRIOR LAW.

7. ADDITIONAL IMPORT DUTY EXEMPTION (ARTICLE 27).

THE PRIOR LAW ALLOWED EXEMPTION FROM OR PAYMENT IN INSTALLMENTS OF DUTY ON MACHINERY AND EQUIPMENT IMPORTED FOR USE IN PRODUCTION, IF UNAVAILABLE DOMESTICALLY. THIS REVISION ADDS THAT INSTRUMENTS AND EQUIPMENT FOR PURPOSE OF DEVELOPING NEW PRODUCTS, IMPROVING PRODUCT QUALITY, CONSERVING ENERGY, PREVENTING POLLUTION, FACILITATING

UTILIZATION OF WASTES OR IMPROVING MANUFACTURE PROCESS SHALL BE EXEMPTED FROM IMPORT DUTY, IF UNAVAILABLE DOMESTICALLY.

8. ENCOURAGEMENT OF MERGER (ARTICLE 33).

THE PRIOR LAW PROVIDES FOR EXEMPTION FROM INCOME, STAMP AND DEED TAXES OTHERWISE PAYABLE AS A RESULT OF A MERGER, AND FOR DEFERRED PAYMENT OF ANY LAND VALUE INCREMENT TAX OTHERWISE PAYABLE AS A RESULT OF A MERGER. THE NEW LAW, TO FURTHER ENCOURAGE MERGERS, PROVIDES THE FOLLOWING ADDITIONAL INCENTIVES:

(1) IF MACHINERY & EQUIPMENT ORIGINALLY USED BY THE MERGING ENTERPRISES ARE SOLD IN ACCORDANCE WITH THE MERGER PLAN, THE PROCEEDS FROM THE SALE ARE EXEMPT FROM THE STAMP TAX, IF USED ENTIRELY TO PURCHASE NEW MACHINERY & EQUIPMENT WITHIN 2 YEARS
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FROM THE DATE OF THE MERGER.

(2) IF FACTORY BUILDING & LAND ORIGINALLY USED BY THE MERGING ENTERPRISES ARE SOLD, THE PROCEEDS ARE EXEMPT FROM THE STAMP & DEED TAXES, IF PROCEEDS ARE USED FOR THE PURCHASE OF NEW BUILDING AND LAND WITHIN 2 YEARS FROM THE DATE OF THE MERGER.

9. BUSINESS TAX APPARENTLY LEVIED ON FOREIGN ENTERPRISES DOING BUSINESS IN TAIWAN WITHOUT LOCAL OFFICE OR AGENT (ARTICLE 30). THIS ARTICLE DELETED WITHOUT MENTION 2ND PARAGRAPH OF ARTICLE 30 OF THE PRIOR LAW, WHICH PROVIDED THAT FOREIGN ENTERPRISES DOING BUSINESS IN TAIWAN WITHOUT LOCAL OFFICE OR AGENT ARE EXEMPT FROM BUSINESS TAX. MINISTRY OF FINANCE EXPLAINED THAT THIS AMENDMENT WILL SUBJECT THOSE FOREIGN ENTERPRISES DOING BUSINESS IN TAIWAN WITHOUT LOCAL OFFICE OF AGENT TO THE BUSINESS TAX. THIS TREATS THEM IN SAME MANNER AS FOREIGN ENTERPRISES WHICH HAVE LOCAL OFFICE OR AGENT HERE.

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10. OTHER ARTICLES ENCOURAGE PUBLIC ISSUANCE OF STOCKS (ARTICLE 11 & 16), ACQUISITION AND UTILIZATION OF LAND IN SPECIAL INDUSTRIAL ZONES (ARTICLE 40 THRU 72), AND THE UTILIZATION OF LAND FOR HOUSING PROJECTS, AND ENLARGE THE USES OF INDUSTRIAL DEVELOPMENT FUNDS.

11. COMMENTS

GROC PREVIOUSLY ESTIMATED REAL ECONOMIC GROWTH RATE FOR 1977 IN ITS ANNUAL ECONOMIC DEVELOPMENT PLAN TO BE 8.5 PERCENT, RELYING HEAVILY ON SUBSTANTIAL GROWTH OF PRIVATE INVESTMENT TO OBTAIN THIS TARGET. GOVERNMENT INVESTMENT, WHICH HAS BEEN MAIN FORCE RESULTING IN ECONOMIC GROWTH IN RECESSION YEARS OF 1974 THRU 1976, IS EXPECTED TO DROP THIS YEAR AS RESULT OF DECLINE IN EXPENDITURES FOR TEN MAJOR INFRASTRUCTURE PROJECTS. HOWEVER, ECONOMIC PERFORMANCE IN FIRST HALF OF 1977 WAS NOT AS GOOD AS EXPECTED. FOREIGN INVESTMENT APPROVALS DECLINED 12.6 PERCENT FROM LEVEL OF FIRST HALF OF 1976. UNOFFICIAL ESTIMATES BASED ON TRENDS OF FIRST HALF OF 1977 SHOWED THAT ANNUAL GROWTH RATE OF 1977 DOMESTIC GROSS FIXED CAPITAL FORMATION

WILL NOT EXCEED 1 PERCENT, COMPARED TO PLANNED 3.5 PERCENT. INVESTMENT FROM GOVERNMENT SECTOR WILL DROP 15-20 PERCENT, COMPARED WITH THE ESTIMATED DROP OF 11.4 PERCENT. GROWTH OF PRIVATE INVESTMENT MAY NOT EXCEED 18 PERCENT, FAR FROM PLANNED TARGET OF 25 PERCENT. IN ORDER TO ESTIMULATE INVESTMENT, GROC HAS LOWERED BANK INTEREST

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RATES 2.5 PERCENT POINTS (FOR SECURED LOANS) SINCE OCTOBER 23, 1976. BESIDES THIS MONETARY MEASURE, SUBJECT REVISED STATUTE IS ANOTHER IMPORTANT ACTION GOVERNMENT TAKES TO ENCOURAGE INVESTMENT. HOWEVER, SOME BUSINESSMEN STILL THINK SUCH REVISION NOT SUFFICIENT TO ALLOW INVESTMENT TO REACH THE PLAN TARGET. SOMETHING MORE FROM GOVERNMENT IS NEEDED.

12. SUGGESTIONS PUBLISHED IN LOCAL PRESS INCLUDE

ANOTHER 4 OR 5 YEARS

OF TAX REDUCTION AFTER THE INITIAL TAX HOLIDAY; FURTHER LOWERING OF BUSINESS INCOME TAX RATES; AND A BROAD INTERPRETATION OF NEW STATUTE. FOR EXAMPLE, SOME BUSINESSMEN HOPE THAT THE 4-YEAR BUFFER PERIOD (PARA 2 SHALL APPLY NOT ONLY TO NEW ENTERPRISES BUT ALSO TO OLD ONES STILL IN A LOSS STAGE; THAT "CATEGORIES AND CRITERIA OF PRODUCTIVE ENTER-

PRISES ELIGIBLE FOR ENCOURAGEMENT" SHALL BE REVISED IN A WAY THAT WILL
GIVE INCENTIVES TO ENTERPRISES ESTABLISHED BEFORE SUCH REVISION; AND
THAT THE COMMENCEMENT DATE OF A BUSINESS OPERATION FOR THE PURPOSE
OF TAX BENEFITS SHALL BE CALCULATED FOR EACH PART OF AN INVESTMENT
PROJECT INSTEAD OF FOR THE WHOLE.

13. EXECUTIVE YUAN RECENTLY DISCLOSED TO PUBLIC THAT IT IS WORKING ON AN
ADDITIONAL "INVESTMENT PROMOTION MEASURE" AND EXPECTS TO PUT IT INTO
FORCE AS AN EXECUTIVE ORDER VERY SOON. ACCORDING TO EXECUTIVE YUAN'S
PRESS RELEASE, THE MEASURE WILL COVER FLEXIBLE ADJUSTMENT OF INTEREST
RATES; SIMPLIFICATION OF FOREIGN INVESTMENT APPLICATION, REVIEW,
AND APPROVAL; FURTHER REDUCTION OF TAX RATES; AND OTHER MATTERS.
IN ADDITION, ECONOMIC PLANNING COUNCIL IS DRAFTING "DIRECTIONS OF
INDUSTRIAL DEVELOPMENT AND MATCHING MEASURES".
SUBJECT REVISED STATUTE WILL BE PROMULGATED SOON. HOWEVER, THIS RE-

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VISION WON'T BE FULLY IMPLEMENTED UNTIL SUPPLEMENTARY EXECUTIVE
REGULATIONS ARE PROMULGATED. THE MOST IMPORTANT ONE WILL DEFINE THE
INDUSTRIES ELIGIBLE FOR ENJOYING FOUR-YEAR BUFFER PERIOD BEFORE
BEGINNING TAX HOLIDAY.

14. ENGLISH TEXT OF THE REVISED "STATUTE FOR ENCOURAGEMENT OF INVESTMENT"
WILL BE FORWARDED TO THE DEPARTMENT AS SOON AS AVAILABLE. UNGER

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